

In re Patent Application of:

ARGOITIA ET AL.

Serial No. 10/762,158

Filed: 01/20/2004

REMARKS

Prior to the foregoing amendment, claims 1-26 were pending. With the cancellation of claims 21-26, and the addition of new dependent claim 27, claims 1-20 and 27 are currently pending.

In response to the requirement of restriction, Applicants elect the invention of Group I - directed to the composition. Original claims 1-20 and new claim 27, which depends upon claim 1, are believed to be includable in this group.

Non-elected claims 21-26 have been cancelled without prejudice to applicants' right to file a separate divisional application directed to the subject matter embodied therein.

The application is also said to contain claims directed to distinct species, wherein the base pigment comprises 1- a mica-based pigment, or 2- a color-shifting pigment. These species have been alleged to be mutually exclusive and Applicants have been required to elect a single disclosed species.

In response thereto, Applicants provisionally elect, with traverse, the species 2- directed to color-shifting pigments. Applicants respectfully submit that the characterization of the two species (1- mica-based pigment and 2-color-shifting pigment) as being "mutually exclusive" is inaccurate, since mica-based pigments can also be color- shifting pigments and, as a consequence, are not necessarily mutually exclusive from color-shifting pigments.

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Moreover, in addition to the statement in the Office Action that claims 1-11, 16 and 20-26 are considered to be generic, Applicants also believe that original claim 17 is generic. In this regard, it should be noted that claim 20, which depends upon claim 17, has been alleged to be generic.

Applicants also respectfully submit that original claims 12 through 15, as well as new claim 27, which depends upon original generic claim 1, are generic.

As such, Applicants respectfully submit that claims 1-17, 19, 20 and 27 read upon the elected species.

Reconsideration of this application and favorable examination of claims 1-20 and 27 are respectfully requested.

Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account No. 50-1465 and please credit any excess fees to such deposit account.

Respectfully submitted,

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